

Order

Michigan Supreme Court
Lansing, Michigan

July 13, 2011

Robert P. Young, Jr.,
Chief Justice

142691

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

PAGEANT HOMES, INC,
Plaintiff-Appellant,

v

SC: 142691
COA: 293359
Ingham CC: 07-001867-CH

WILLIAM E. BRADLEY, WILLIAM WILFORD,
and PATRICIA WILFORD,
Defendants,

and

DEUTSCHE BANK NATIONAL TRUST,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the January 20, 2011 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals. The record below reflects that plaintiff Pageant Homes, Inc.'s arguments on appeal encompassed the issue of whether its lien was discharged because an affidavit of payment was filed under MCL 570.1203(1) [repealed by 2010 PA 147, now codified at MCL 570.1118a(1)]. The Court of Appeals erred in holding otherwise. We note, in this regard, that the statutory qualification contained in § 1203(1), "to the extent payments have been made," has been held to protect a property owner only up to the amount of the payment. See *DLF Trucking, Inc. v Bach*, 268 Mich App 306, 311-312 (2005). We REMAND this case to the Court of Appeals for further proceedings not inconsistent with this order, and for consideration of the issues raised by the parties but not addressed by that court during its initial review of this case.

We do not retain jurisdiction.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 13, 2011

Corbin R. Davis

Clerk